

**State of California  
CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
CLOSED SESSION AGENDA**

**Government Code § 11126 (a), (c)(3), and (e)  
For**

**Wednesday, November 5, 2008**

**10:00 AM**

**Sacramento, California  
&  
West Covina, California**

**TO: Members of the California Occupational Safety and Health Appeals Board**

**FROM: J. Jeffrey Mojcher, Chief Counsel**

**DATE: October 24, 2008**

**RE: Closed Session of the Board on November 5, 2008**

Pursuant to Government Code section 11126, subdivisions (a), (c) (3), and (e) and the Labor Code sections 6609 and 6620, the Appeals Board will hear the following items in Closed Session.

---

**DECISIONS OF ADMINISTRATIVE LAW JUDGES:**

*(Written decision issued by an Administrative Law Judge (ALJ). The decision summarizes the evidence received from the Division of Occupational Safety and Health and the Employer, makes findings of fact for all issues involved in the appeal and gives reasons and grounds for the decision. The Board Members review the decision and decide if they will reconsider the ALJ decision on their own motion.)*

1. MR. COOL, INC., 07-R2D1-0484

**ORDERS OF ADMINISTRATIVE LAW JUDGES:**

*(Written order issued by an Administrative Law Judge (ALJ) after a pre-hearing conference in which the Division of Occupational Safety and Health and the Employer agree to settle an appeal without a hearing. The Board Members review the order and decide if they will reconsider or remand the issued order.)*

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM

For November 5, 2008

Page 2

1. AT&T, 07-R2D1-4217 THROUGH 4219
2. AT&T CALIFORNIA CORPORATION, 06-R2D1-5040
3. AGRICULTURAL DISTRIBUTING, INC., 07-R2D1-0019 THROUGH 0021
4. ANASPEC INC, 07-R1D2-3746 AND 3747
5. ARCHITECTURAL GLASS & ALUMINUM, 06-R1D1-3850 AND 3851
6. ATHENS SERVICES dba AMERICAN WASTE INDUSTRIES, 07-R6D2-3280 THROUGH 3285
7. AYALA BORING INC, 08-R5D1-0221
8. B D COMPTON CONSTRUCTION INC, 06-R1D5-4002
9. B N BUILDERS INC., 07-R1D3-4606
10. BARRETOS PAINTING & DECORATING, 07-R2D5-4378 AND 4379
11. BLUE IRON, INC., 07-R5D1-4056
12. BLUE MOUNTAIN, 07-R2D3-4650 AND 4651
13. BOGHOSIAN RAISIN PACKING CO INC, 08-R2D5-1392 AND 1393
14. MARIO BRAVO dba GOLDEN AG PAYROLL SERVICE, 07-R2D3-4083
15. BRIGHT'S NURSERY INC, 07-R2D4-4546
16. BROWN'S RECREATION CENTER INC., 07-R1D5-5291
17. BULLET GUARD CORPORATION, 08-R2D1-1580
18. CAL ELECTRO INC, 07-R2D3-4228 AND 4229
19. CALIFORNIA EXPANDED METAL PRODUCTS CO dba CEMCO, 07-R6D1-2260 THROUGH 2269
20. CAPITOL VALLEY COMMERCIAL, INC., 06-R2D1-4008 AND 4009 AND 06-R2D1-5038

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
For November 5, 2008  
Page 3

21. CEO CONSTRUCTION INC, 07-R2D1-4628
22. CEO STEEL FABRICATION INC, 07-R2D1-4627
23. CENTRAL CONCRETE SUPPLY, 06-R1D4-4687 THROUGH 4689
24. CHIPOTLE MEXICAN GRILL, 08-R2D2-1138
25. CIRBY DENTAL GROUP, 06-R2D1-3070
26. COMODA, INC., 08-R6D5-2165 THROUGH 2167
27. CREATIVE CABINETS INC., 07-R1D5-1514 AND 1515
28. CRYSTAL GEYSER WATER CO, 07-R6D4-3728
29. CULLINANE PLASTERING, 06-R1D1-3335
30. DEPUE WAREHOUSE COMPANY INC, 08-R2D3-1140
31. DREISBACH, 08-R6D3-2032 THROUGH 2035
32. EOG RESOURCES, INC., 07-R3D7-0191 AND 0192
33. FRESH EXPRESS INC., 07-R1D2-1662 AND 1663
34. GAYLE MANUFACTURING COMPANY, INC., 06-R2D1-4701
35. GRANITE CONSTRUCTION COMPANY, 06-R5D1-659
36. SAM GUTIERREZ dba S & A CONSTRUCTION, 07-R1D1-0002
37. HANSON AGGREGATES WEST INC, 07-R5D1-4748
38. HOME DEPOT, 07-R1D2-5273
39. HONESTY AUTO, 07-R2D2-5298
40. HUMBOLDT COUNTY PUBLIC WORKS, 07-R2D3-4541 THROUGH 4543
41. HUNTERS PEST CONTROL INC, 06-R2D3-4721
42. BEN-IESAU CONSTRUCTION, 07-R2D3-5028

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM

For November 5, 2008

Page 4

43. J-M MANUFACTURING CO INC, J-M PIPE MFG CO-FOTANA, 07-R3D3-3054  
AND 3055
44. J.R. ROBERTS/DEACON INC, 07-R1D4-3916
45. K.D. STEEL, INC., 07-R1D2-2678
46. K W AUTOMOTIVE, 06-R2D5-2580 AND 2581
47. KENAI DRILLING LIMITED, 07-R1D5-2683
48. KIMURA & SONS, INC., 07-R2D1-4328 THROUGH 4330
49. KUTCHA INTERNATIONAL, INC. dba GEORGIO REALITY, 07-R4D1-766  
AND 767
50. L.A. CHINA TOWN MALL, LLC, 07-R4D1-0768 AND 0769
51. LLAMAS FARM LABOR CONTRACTING, 07-R2D5-0043 THROUGH 0045
52. KERRY MC CAFFREY CONSTRUCTION INC., 07-R2D1-4216
53. JOSE MENDOZA, 07-R1D1-4585 AND 4586
54. MOUNTAIN CASCADE, INC., 07-R1D4-2679
55. NW ERECTION SPECIALISTS, INC., 07-R2D4-4849 AND 4850
56. OAK PAPER PRODUCTS, 08-R4D2-2488 AND 2489
57. PACIFIC BELL TELEPHONE CO dba AT&T NETWORK SERVICES SOUTH,  
07-R2D1-4324
58. PACIFIC SUNWEAR OF CALIFORNIA INC., 08-R3D1-2137 THROUGH 2139
59. PAQ, INC., dba FOOD 4 LESS, 08-R2D4-3196 THROUGH 3198
60. PETERSEN-DEAN INC. 07-R1D2-1115
61. PETERSEN DEAN ROOFING INC., 07-R1D2-1004 AND 1005
62. PETROCHEM INSULATION, INC., 07-R2D1-4214 AND 4215
63. RH FRAMING, INC. 06-R1D2-5244

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
For November 5, 2008  
Page 5

64. ROMA'S PIZZERIA, 07-R2D1-4829
65. SAC VALLEY ELECTRIC INC, 07-R2D1-4212
66. SAFEWAY, INC., 07-R1D1-939 AND 940
67. SAN FRANCISCO GENERAL HOSPITAL, 08-R1D1-0001
68. ARONOLD SCHMIDT DBA BAY CITY FRAMERS, 07-R2-D3-4343
69. SIERRA FOREST PRODUCTS, 06-R2D5-5273
70. SIERRA NATIONAL CONSTRUCTION INC., 07-R2D1-2101
71. SIERRA PACIFIC IND, 07-R2D3-4084
72. SKANSKA USA BUILDING, INC., 06-R1D2-5017 AND 5018
73. SKYCREST ENTERPRISES, 07-R2D1-4624 AND 4625
74. SKYWEST AIRLINES, 08-R4D1-2406
75. SOUTHERN CALIFORNIA EDISON COMPANY, 07-R3D5-2844 AND 2845
76. T B PENICK & SONS, INC., 08-R6D5-3175
77. A TEICHERT & SON dba TEICHERT AGGREGATES, 07-R5D1-870
78. A TEICHERT & SON dba TEICHERT AGGREGATES, 07-R5D1-2854
79. THE KROGER CO – RIVERSIDE CREAMERY DIVISION, 06-R3D3-4967
80. TIKAERB, INC., 07-R2D4-4545
81. TILBURY CONSTRUCTORS, 07-R2D1-1521 AND 1522
82. TIMBER WORKS CONSTRUCTION INC, 07-R2D1-4080
83. TRUCK ACCESSORY GROUP, LLC, 07-R2D1-4118 THROUGH 4121
84. UNION ASPHALT INC, 07-R5D1-5016
85. UNIVERSAL CUSTOM DISPLAY, 07-R2D1-1363 THROUGH 1365

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
For November 5, 2008  
Page 6

86. V'S DEMOLITION INC., 07-R1D2-4
87. WAL-MART STORES, INC., 07-R2D1-4333
88. WEST VALLEY CONSTRUCTION COMPANY, INC., 06-R1D1-3033
89. WESTWOOD BUILDING MATERIAL CO., 06-R4D1-2491 THROUGH 2493
90. YOSEMITE TRUSS INC., 07-R2D4-4355

**ORDERS DISMISSING APPEALS:**

1. AMERICAN INFRARED SAUNA CORP, 07-R6D2-2648 THROUGH 2659
2. MITCHELL ENGINEERING, 06-R5D1-4304

**STIPULATIONS:**

1. KINDER MORGAN ENERGY PARTNERS, LP, 05-R2D4-2013 AND 2014

**PETITIONS FOR RECONSIDERATION:**

*(The Division of Occupational Safety and Health and the Employer each has the right to petition the Appeals Board to reconsider a decision or order of an Administrative Law Judge. The Appeals Board must decide to grant or deny each petition.)*

1. ADVANCE FOOD, 08-R4D1-9014
2. CREATIVE COMPOSITION, INC., 08-R2D3-9053
3. GASPAR BALTAZAR MENDEZ dba SUCCESS VALLEY CONTRACT, 08-R2D4-9035
4. KENO'S RESTAURANT, 08-R3D1-9123
5. KIK AEROSOL SOCAL LLC, 08-R4D4-9354
6. JOHN MANCEBO, 08-R2D5-9313
7. MAGIC CAR WASH, 07-R2D1-908
8. KEVIN NOWNEJAD D.C. 08-R4D1-9353

**DENIAL OF PETITION FOR RECONSIDERATION (DRAFTS):**

1. CHILDHELP, 06-R3D3-4267
2. INTERNATIONAL TRANSPORTATION SERVICE, INC., 07-R6D2-3824
3. KEETON CONSTRUCTION, 08-R3D3-9055
4. SHIMMICK CONSTRUCTION AND OBAYASHI CORP., 06-R5D3-1136

**DECISIONS AFTER RECONSIDERATION (DRAFTS):**

*(If the Appeals Board grants a petition for reconsideration it reviews the facts of the appeal and then issues a decision after reconsideration upholding, reversing or modifying the underlying ALJ decision.)*

1. A. TEICHERT & SON, INC., A CORPORATION dba TEICHERT AGGREGATES, 04-R5D2-850 AND 851
2. A & C LANDSCAPING, INC. aka A & C CONSTRUCTION, INC., 03-R4D4-4791
3. AC FRAMERS INC., 03-R2D3-3475
4. ASC PROFILES, INC., 06-R2D1-1181
5. ANNING-JOHNSON COMPANY, 06-R1D3-1976
6. BART, 03-R1D1-5170
7. BIMBO BAKERIES USA, 03-R1D3-5215 THROUGH 5217
8. BLF, INC. dba LARRABURE FRAMING, 03-R4D3-4428 AND 4429
9. BLF, INC. dba LARRABURE FRAMING, 02-R4D1-4675 THROUGH 4680
10. BLUE DIAMOND MATERIALS, 02-R5D2-1268
11. CALDWELL-ROLAND ROOFING, INC., 03-R1D4-2905
12. CALIFORNIA FAMILY FITNESS, 03-R2D1-95 AND 96
13. CALIFORNIA FRESH FARMS, LLC, 06-R2D4-4127 AND 4224
14. CENTRAL VALLEY CONTRACTING, 05-R4D3-2351

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
For November 5, 2008  
Page 8

15. COX COMMUNICATIONS, 03-R3D2-1942
16. DADE BEHRING, 05-R2D1-2203
17. DAKOTA COMPANIES UNLIMITED, 05-R4D3-392 AND 393
18. DAVIS BROTHERS FRAMING, INC., 03-R3D1-114
19. DAVIS BROTHERS FRAMING, INC., 05-R3D3-634 THROUGH 636
20. DYNALECTRIC, 03-R1D1-4101
21. ETTER & SON CONSTRUCTION, INC., 03-R1D5-3131
22. FORKLIFT SALES OF SACRAMENTO, INC., 05-R2D1-3477
23. G.T. ALDERMAN, INC., 05-R4D3-3513
24. GENERAL TRUSS CO. INC., 06-R2D1-783 AND 784
25. GHILOTTI BROS. CONTRACTORS, 04-R1D5-2321 AND 2322
26. GLASS PAK, 03-R2D2-750 AND 751
27. HARRY L. MURPHY, INC., 06-R1D2-218 AND 219
28. HELPMATES STAFFING SERVICES, 05-R3D3-2239
29. HUSSMAN CORPORATION, 03-R3D1-2939
30. ILH CONSTRUCTION, 02-R1D1-4172
31. INDUSTRIAL MASONRY, INC., 07-R3D2-735 AND 736
32. IRWIN INDUSTRIES, INC., 08-R6D4-1454 THROUGH 1456
33. JENSEN PRECAST, 05-R2D1-2377
34. JOHN LAING HOMES, 04-R3D1-194 AND 195
35. JOHN M. FRANK CONSTRUCTION, 06-R4D3-968
36. KELLY SERVICES, INC., 06-R1D2-1024

CALIFORNIA OCCUPATIONAL SAFETY AND HEALTH APPEALS BOARD  
CLOSED SESSION MEMORANDUM  
For November 5, 2008  
Page 9

37. KENNY-SHEA-TRAYLOR-FRONTIER/KEMPER, JV, 03-R5D2-323
38. LOS ANGELES, CITY OF, FIRE DEPARTMENT, 03-R2D5-3960
39. LOS ANGELES, CITY OF, HOUSING AUTHORITY, (HACLA), 05-R4D2-2541
40. BILL NELSON GENERAL ENGINEERING & CONSTRUCTION, 06-R2D5-1552  
THROUGH 1554
41. O & M INDUSTRIES, 04-R1D5-1597
42. P G & H CONTRACTING, INC., 06-R4D3-1657 AND 1658
43. PMR RACE CARS, 03-R3D3-1825
44. POUK & STEINLE, INC., 03-R4D2-1495 AND 1496
45. RII PLASTERING INC., 02-R3D1-2679
46. R & L BROSAMER, INC., 03-R1D5-4832
47. SANTA ROSA CITY TRANSIT AND PARKING DEPARTMENT, 05-R1D5-1417
48. STACY & WITBECK, INC., 05-R1D1-1142
49. STATE CENTER COMMUNITY COLLEGE DISTRICT, 05-R2D5-1688 THROUGH  
1692
50. STRUCTURAL SHOTCRETE SYSTEM, 03-R4D3-986
51. TEICHERT AGGREGATES, 04-R5D1-2982
52. THE HERRICK CORP., 07-R3D1-495
53. TRIO METAL, 03-R4D4-317
54. UKIAH FORD-LINCOLN-MERCURY, INC., 06-R1D5-2256 AND 2557
55. UNITED PARCEL SERVICE, 07-R3D3-3322
56. WEBCOR CONSTRUCTION, 06-R1D1-2093 THROUGH 2095
57. WESTCOAST COMMUNICATION, 05-R2D3-2801 AND 2802

**PENDING LITIGATION:**

*(If the Division of Occupational Safety and Health or the Employer disagrees with a decision after reconsideration, either one or both parties may apply to the California Superior Court for a writ of mandate. The Appeals Board receives legal advice from its Legal Unit and provides policy direction regarding pending litigation.)*

**SUPERIOR COURT:**

1. WESTERN MILLING, LLC, 06 CE CG 04007 (06-9039/9040)
2. UNITED AIRLINES dba UNITED AIRLINES SFO SYC, 07CS00331 (00-2844)
3. HARRIS CONSTRUCTION COMPANY, INC., 07CS00518 (02-3914)
4. JERLANE v DIVISION OF OCCUPATIONAL SAFETY & HEALTH, 37-2007-0005631-CU-WM-NC, (01-4344/4345)
5. J.F. SHEA CONSTRUCTION, INC. (DOSH V OSHAB), 34-2007-00882187-CU-WM-GDS, (02-801)
6. E.L. YEAGER CONSTRUCTION COMPANY, INC. (DOSH v OSHAB), 34-2007-00882192-CU-WM-GDS, (01-3261)
7. BRUTOCO ENGINEERING & CONSTRUCTION, INC., 30-2007 00100159 (07-9223)
8. MURRAY COMPANY, BS112469 (07-9190/9192)
9. MCI WORLDCOM, 34-2008-00006043-CU-WM-GDS (00-440)
10. KHS & S CONTRACTORS, 32-2008-00107284-CU-WM-GDS CJC (00-440)
11. ARTHUR J. BREWSTER CORP. dba PRESTIGE KITCHENS, INC., 30-2008-00110573 (08-1121)
12. EMPIRE PRO-TECH INDUSTRIES, 37-2008-00091916-CU-WM-CTL (07-2837)

**OTHER LEGAL MATTERS:**

*(Any legal matter that comes about after the agenda is noticed 10 days in advance of the meeting announcement and that must be acted upon or legal matters pending before the Board requiring specific Board action but do not fall within the above categories.)*

**PERSONNEL:**

*(Issues regarding staff.)*

Any matter not completed at this Closed Session may be continued to subsequent meetings.